

OPEN MEETING ITEM

COMMISSIONERS
KRISTIN K. MAYES - Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

ORIGINAL



ARIZONA CORPORATION COMMISSION



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Arizona Corporation Commission

AZ CORP COMMISSION
DOCKET CONTROL

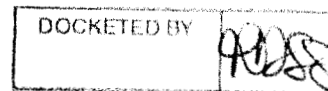
DATE: NOVEMBER 3, 2010

DOCKETED

DOCKET NOS.: T-20562A-10-0221

NOV - 3 2010

TO ALL PARTIES:



Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Opinion and Order on:

BANDWIDTH.COM CLEC, LLC
(CANCEL CC&N)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

NOVEMBER 12, 2010

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

NOVEMBER 22, 2010 AND NOVEMBER 23, 2010

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES – Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF
9 BANDWIDTH.COM CLEC, LLC. TO CANCEL
10 ITS CERTIFICATE OF CONVENIENCE AND
11 NECESSITY TO PROVIDE COMPETITIVE
12 RESOLD LOCAL EXCHANGE
13 TELECOMMUNICATIONS SERVICES IN
14 ARIZONA.

DOCKET NO. T-20562A-10-0221

DECISION NO. _____

ORDER

15 Open Meeting
16 November 22 and 23, 2010
17 Phoenix, Arizona

18 **BY THE COMMISSION:**

19 * * * * *

20 Having considered the entire record herein and being fully advised in the premises, the
21 Commission finds, concludes, and orders that:

22 **FINDINGS OF FACT**

23 1. In Commission Decision No. 71117 (June 5, 2009),¹ the Arizona Corporation
24 Commission (“Commission”) granted Bandwidth.com CLEC, LLC. (“Bandwith” or “Company”) a
25 Certificate of Convenience and Necessity (“CC&N”) to provide resold local and resold long distance
26 and facilities-based resold local exchange and facilities-based long distance telecommunications
27 services within the State of Arizona.

28 2. On June 4, 2010, Bandwidth filed an application with the Commission requesting to
cancel its authority under its CC&N to provide facilities-based long distance and resold local
exchange telecommunications service in Arizona. The application states Bandwidth will retain its
CC&N authority to provide resold long distance and facilities-based local exchange
telecommunications services in Arizona. Bandwidth also request that its irrevocable sight draft letter

¹ Docket No. T-20562A-07-0615.

1 of credit in the amount of \$225,000² be reduced by \$125,000 to reflect cancellation of its facilities-
2 based long distance and resold local exchange authority. The application also seeks waiver of A.A.C.
3 R14-2-1107.

4 3. On August 12, 2010, Staff filed a memorandum in response to Bandwidth's
5 application to cancel its authority to provide facilities-based long distance and resold local exchange
6 telecommunications services and Staff recommends approval of Bandwidth's application. Staff
7 verified that Bandwidth has not commenced resold local exchange services in Arizona and that
8 Bandwidth has never collected advance payments or deposits from Arizona customers. Staff
9 concluded that the cancellation of Bandwidth's authority to provide facilities-based long distance and
10 resold local exchange telecommunications in Arizona will pose no risk to Arizona customers. Staff
11 recommends waiver of A.A.C. R14-2-1107, which requires legal notice of Bandwidth's application
12 to cancel its CC&N because Bandwidth has no local or long distance customers in Arizona. Further,
13 Staff recommends that Bandwidth's irrevocable sight draft letter of credit be reduced to \$100,000 to
14 reflect cancellation of Bandwidth's authority to provide resold local exchange and facilities-based
15 long distance telecommunications services in Arizona.

16 4. According to Staff, the Commission's Consumer Services Division reported no
17 complaints, inquiries, or opinions have been filed against Bandwidth.

18 5. According to the Commission's Corporation Division, Bandwidth is in good standing
19 with the Commission.

20 6. Staff's recommendations are reasonable and should be adopted.

21 CONCLUSIONS OF LAW

22 1. Bandwidth.com CLEC, LLC is a public service corporation within the meaning of
23 Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

24 2. The Commission has jurisdiction over Bandwidth.com CLEC, LLC and of the subject
25 matter of the application.

26
27
28 ² On July 6, 2009, pursuant to Commission Decision No. 71117 (June 5, 2009) Bandwidth filed a \$225,000 irrevocable
sight draft letter of credit with the Commission's Business Office.

3. Cancellation of Bandwidth.com CLEC, LLC's CC&N to provide facilities-based long distance and resold local exchange telecommunications services in Arizona is in the public interest.

ORDER

IT IS THEREFORE ORDERED that Bandwidth.com, CLEC, LLC's application to cancel its authority to provide resold local exchange and facilities-based long distance telecommunications services in Arizona is hereby granted.

IT IS FURTHER ORDERED that Bandwidth.com CLEC, LLC's tariffs on file with the Commission related to Bandwidth.com CLEC, LLC's authority to provide resold local exchange and facilities-based long distance telecommunications in Arizona shall be cancelled upon the effective date of this Decision.

IT IS FURTHER ORDERED that Bandwidth.com, CLEC, LLC is hereby granted a waiver of A.A.C. R14-2-1107 (A)(2).

1 IT IS FURTHER ORDERED that Bandwidth.com, CLEC, LLC's irrevocable sight draft letter
 2 of credit shall be reduced to \$100,000 to reflect cancellation of its authority to provide resold local
 3 exchange and facilities-based long distance telecommunications services in Arizona.

4 IT IS FURTHER ORDERED that Bandwidth.com, CLEC, LLC's authority under its
 5 Certificate of Convenience and Necessity to provide resold long distance and facilities-based resold
 6 local exchange shall remain in effect until further Order of the Commission.

7 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

9
 10
 11 CHAIRMAN

COMMISSIONER

12
 13 COMMISSIONER

COMMISSIONER

COMMISSIONER

14
 15 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
 16 Executive Director of the Arizona Corporation Commission,
 17 have hereunto set my hand and caused the official seal of the
 Commission to be affixed at the Capitol, in the City of Phoenix,
 this ____ day of _____, 2010.

18
 19 ERNEST G. JOHNSON
 20 EXECUTIVE DIRECTOR

21 DISSENT _____

22
 23 DISSENT _____

24 YBK:db

1 SERVICE LIST FOR: BANDWIDTH.COM CLEC, LLC
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